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EXAMINER

HYLINSKI, STEVEN J

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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1. In the after-final request for reconsideration, Applicant discusses how he believes that Glavich's bonus game in and of itself can not be considered a special payout outcome. Applicant is directed again to page 2 of the Final Office Action mailed 04/21/2009. Under bullet point #2, Examiner explicitly defines what aspect of Glavich Examiner is interpreting as the special payout outcome. Examiner states here that, "a bonus game pick **resulting in a win** can be interpreted as a special-payout outcome." Clearly, Examiner is not attempting to characterize the pick-matrix bonus game itself as a special-payout outcome. Examiner equates only a winning pick in the bonus game, as being a special-payout outcome. The claims as-presented, do not disallow this interpretation. Applicants' arguments that misconstrue Examiner's interpretation of Glavich's special-payout outcome, are therefore moot.

2. Applicant presents a claim element-by-claim element comparison to illustrate Applicants' belief that the side wager in Glavich affects a bonus game, and not a basic game, and therefore could not meet the limitations of the independent claims. However, Examiner points out that although the claims of the instant invention are described in terms of a "basic game", the claims do not make any distinction between this "basic game" and some "bonus game" beyond the basic game. In other words, the claims do not preclude a basic game from including a bonus game, or in the case of Glavich, from being a combination of a base and bonus game that are functionally tied together. Lacking any clear distinction between the "basic game" of the instant application, and any other combination of base and/or bonus games, Examiner is interpreting the combination of Glavich's base and bonus game triggered from the base game, as a

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“basic game” overall. Glavich’s bonus game, in one embodiment, is necessarily tied to the wager made in the base game, and therefore separating Glavich’s bonus game from the base game would destroy its functionality. Interpreting the overall base and bonus game functionality as one basic game is therefore further reasonable. The base and bonus games of Glavich, together, anticipate all of the limitations of the “basic game” of the instant application, and in view of the above-mentioned lack of an explicit definition of why a basic game could not include an embedded bonus game, Examiner maintains that Glavich anticipates the claim limitations in the same manner called out in the Final Office Action of 04/21/2009. All further allegations of Applicant based on attempting to distinguish Glavich’s bonus game features from being included in a “basic game”, are therefore moot.

3. Regarding argument A, and in light of the fact that Examiner is considering the base and bonus games of Glavich, together, as meeting the limitations of a “basic game”, Glavich’s randomly associating only certain picks with wins for the bonus game pick matrix, meets the limitation of the basic game having random outcomes selected independently of the player selection.

4. Regarding arguments B, C and D, as discussed above and explicitly mentioned in the Response to Arguments in the Final Office Action mailed 04/21/2009, Examiner is not interpreting the bonus game of Glavich itself as an outcome. Instead, Examiner is interpreting each pick in the pick matrix of Glavich’s bonus game, as an outcome (and the special-payout outcome is a pick in the pick matrix that guarantees a payout to the

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player, as discussed above). Examiner maintains all rejections related to these arguments, as set forth in the Final Office Action of 04/21/2009.

5. Regarding Argument E, Examiner maintains that one of ordinary skill in the art, at the time the invention was made, would recognize that varying the types of “monetary prizes” associated with wins in Glavich’s bonus game, within those types of monetary prizes that are old and well-known in the art of casino gaming including progressively-funded monetary prizes, would produce no new or unexpected results. Formulating a 35 U.S.C. 103(a) rejection requires ascertaining what the level of one of ordinary skill in the art is. Furthermore, one of ordinary skill in the art is not devoid of ordinary creativity in the art. One of ordinary skill in the art would readily be able to fund Glavich’s monetary prizes from a progressive source, and find that doing so would not elevate such a combination above the realm of obviousness.